

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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KA 14-01248

PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOHN P. CORRA, DEFENDANT-APPELLANT.

KATHLEEN A. KUGLER, CONFLICT DEFENDER, LOCKPORT (EDWARD P. PERLMAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

NIAGARA COUNTY DISTRICT ATTORNEY'S OFFICE, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Sara S. Farkas, J.), rendered September 21, 2011. The judgment convicted defendant, upon his plea of guilty, of attempted burglary in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: On this appeal from a judgment convicting defendant upon his plea of guilty of attempted burglary in the first degree (Penal Law §§ 110.00, 140.30 [3]), we note that "no mention was made on the record during the course of the allocution concerning the waiver of defendant's right to appeal his conviction that he was also waiving his right to appeal the harshness of his sentence (*see People v Maracle*, 19 NY3d 925, 928 [2012])" (*People v Pimentel*, 108 AD3d 861, 862, *lv denied* 21 NY3d 706). We thus conclude that the waiver of the right to appeal does not encompass the challenge to the severity of the sentence (*see People v Doblinger*, 117 AD3d 1484, 1485). We nevertheless further conclude that the sentence is not unduly harsh or severe.

Entered: July 8, 2016

Frances E. Cafarell
Clerk of the Court